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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2005		Complete if Known	
		Application Number	10/685,587-Conf. #5135
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Filing Date	October 16, 2003
TOTAL AMOUNT OF PAYMENT (\$)		First Named Inventor	Sei-no-suke Mizuno
		Examiner Name	K. R. Kruer
250.00		Art Unit	1773
		Attorney Docket No.	GOT-0018

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 18-0013 Deposit Account Name: Rader, Fishman & Grauer PLLC

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**
_____ - = _____ x _____ = _____

Multiple Dependent Claims
Fee (\$) **Fee Paid (\$)**
_____ _____

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**
_____ - = _____ x _____ = _____

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets **Extra Sheets** **Number of each additional 50 or fraction thereof** **Fee (\$)** **Fee Paid (\$)**
_____ - 100 = _____ / 50 _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 2402 Filing a brief in support of an appeal 250.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent)	22,663/40,949	Telephone	(202) 955-3750
Name (Print/Type)	David T. Nikaido/Lee Cheng	Date	November 1, 2005		

**TRANSMITTAL OF APPEAL BRIEF**Docket No.
GOT-0018

In re Application of: Sei-no-suke Mizuno

Application No.
10/685,587-Conf. #5135Filing Date
October 16, 2003Examiner
K. R. KruerGroup Art Unit
1773

Invention: SPARKLING LAMINATE FILM AND SPARKLING SHAPED ARTICLE

TO THE COMMISSIONER OF PATENTS:Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal filed: September 2, 2005The fee for filing this Appeal Brief is \$ 250.00☐ Large Entity ☒ Small Entity☐ A petition for extension of time is also enclosed.

The fee for the extension of time is _____

☐ A check in the amount of _____ is enclosed.☒ Charge the amount of the fee to Deposit Account No. 18-0013
This sheet is submitted in duplicate.☐ Payment by credit card. Form PTO-2038 is attached.☒ The Director is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. 18-0013
This sheet is submitted in duplicate.Dated: November 1, 2005David T. Nikaido/Lee Cheng
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Docket No.: GOT-0018
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Sei-no-suke Mizuno

Application No.: 10/685,587

Confirmation No.: 5135

Filed: October 16, 2003

Art Unit: 1773

For: SPARKLING LAMINATE FILM AND
SPARKLING SHAPED ARTICLE

Examiner: K. R. Kruer

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

As required under 37 C.F.R. §41.66(a), this brief is filed within the statutory term of the Notice of Appeal filed in this case on September 2, 2005, and is in furtherance of said Notice of Appeal.

The fees required under 37 C.F.R. §41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains items under the following headings as required by 37 C.F.R. §41.67 and §1205.02 of the MPEP:

I.	Real Party in Interest			
II	Related Appeals and Interferences	11/02/2005 JADD01	00000024 100013	10685587
III.	Status of Claims	01 FC:2402	250.00 DA	
IV.	Status of Amendments			
V.	Summary of Claimed Subject Matter			
VI.	Issues to be reviewed on Appeal			
VII.	Argument			
VIII.	Claims Appendix			

IX. Evidence Appendix
X. Related Proceedings Appendix
Appendix A Claims

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is Nihon Ply Kabushiki Kaisha of Tokyo, Japan. An assignment of all rights in the present application to Nihon Ply Kabushiki Kaisha was executed by the inventors and recorded by the U.S. Patent and Trademark Office at **Reel 014610, Frame 0042**.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 6 claims pending in this application.

B. Current Status of Claims

1. Claims canceled: None
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: Claims 1-6
4. Claims allowed: None
5. Claims rejected: Claims 1-6

C. Claims on Appeal

The claims on appeal are claims 1-6

IV. STATUS OF AMENDMENTS

Applicant filed an Amendment in response to the first Office Action (mailed January 27, 2005) on March 31, 2005, following the filing of the application on October 16, 2003. The Examiner responded to the Amendment with a Final Office Action mailed June 3, 2005. Applicant filed a Response to the Final Office Action on July 20, 2005, and the Examiner responded in an Advisory Action mailed August 22, 2005, which is the subject of this Appeal. In the Advisory Action, the Examiner refused to enter the amendment filed on July 20, 2005 alleging that the new claims do not place the application in better form for appeal by materially reducing or simplifying the issues for appeal. The Examiner also indicated that the new claims are added without canceling a corresponding number of finally rejected claims.

Accordingly, the claims enclosed herein in Appendix A are directed to the original claims 1-6 since no claim amendments were presented in Applicant's amendment filed March 31, 2005.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention provides (1) a sparkling laminate film comprised of a substrate, a metal vapor deposited layer formed on a front surface of said substrate, a transparent resin surface layer formed on the front surface of said metal vapor deposited layer, and a backing material integrally bonded to a back surface of said substrate through an adhesive layer (*see page 2, lines 15-22, of the specification*) and (2) a sparkling shaped article comprised of such sparkling laminate film integrally bonded to the shaped body of the article (*see page 2, last 4 lines, of the specification*).

Preferably, the sparkling laminate film of the present invention contains (A) a substrate comprised of a polyester-based resin with a high flexibility, (2) a metal vapor deposited layer having a thickness of 150 to 750Å, (3) a transparent resin surface layer made of one of an acryl-based resin and a urethane-based resin, or (4) a hue angle (H°), when measuring the color of the transparent resin surface layer, in a range of 245 to 265 (*see page 2, lines 23-31, of the specification*).

VI. ISSUES TO BE REVIEWED ON APPEAL

1. Whether claims 1-3, 5 and 6 can be rejected under 35 U.S.C. §103(a) as being obvious over Parker et al. (U.S. Patent 4,403,004) in view of Vander Velden et al. (U.S. Patent 5,494,745).
2. Whether claim 4 can be rejected under 35 U.S.C. §103(a) as being obvious over Parker et al. in view of Vander Velden et al. and further in view of Sidders (U.S. Patent 4,183,975).

VII. ARGUMENT

In the Office Action of June 3, 2005, the following rejections were presented by the Examiner:

- (i) 35 U.S.C. §112, first paragraph

None

- (ii) 35 U.S.C. §112, second paragraph

None

- (iii) 35 U.S.C. §102

None

- (iv) 35 U.S.C. §103

1. The Examiner rejected claims 1-3, 5 and 6 under 35 U.S.C. §103(a) as allegedly being obvious over Parker et al. (U.S. Patent 4,403,004) in view of Vander Velden et al. (U.S. Patent 5,494,745).

To establish a *prima facie* case of obviousness, the prior art references, in combination, must teach or suggest the invention as a whole, including all the limitations of the claims. Here, in this case, the combination of Parker et al. and Vander Velden et al. fails to teach or suggest the limitation “*a backing material integrally bonded to a back surface of said substrate through an adhesive layer.*”

Parker et al. teaches a decorative metallized laminate comprising a base layer prepared from a thermo-formable resin film, *with both surfaces thereof coated with vapor deposited metal layers.* In contrast, the present claims are directed to a laminate film comprising a substrate, *a metal vapor deposited layer formed on a front surface of said substrate,* a transparent resin surface layer formed on the front surface of said metal vapor deposited layer, and *a backing material integrally bonded to a back surface of said substrate through an adhesive layer.* In other words, in the present invention, the metal vapor deposited layer is formed on the *front surface of said substrate* while a backing material is integrally bonded to the *back surface of said substrate through an adhesive layer.* By coating *both surfaces of the base layer (i.e. substrate) with vapor deposited metal layers* (see column 4, lines 58-59, of Parker et al. which states “[B]ase layer 12 is provided on both of its surfaces with tightly adherent, reflective metal coatings 14 and 16”), Parker’s laminate cannot comprise “*a backing material integrally bonded to a back surface of said substrate through an adhesive layer*” since the back surface of the base layer is already coated with a metal layer.

This deficiency in Parker et al. is not cured by the teachings and suggestions of Vander Velden et al.. Vander Velden et al. is directed to a multilayer laminated structure and is only cited to support the Examiner’s position that conventional laminating techniques include adhesive lamination.

The Examiner responded to our arguments by indicating that the claims “*do not exclude the possibility of layers intervening between the substrate and the adhesive layer and/or the adhesive layer and the backing material*”. However, Applicant argues that the claimed phrase “*integrally bonded*” should be interpreted to exclude the presence of layers intervening between the substrate and the adhesive layer and/or the adhesive layer and the backing material. In Merriam-Webster Online Dictionary, the term “*integral*” is defined as “*essential to completeness*”, “*composed of integral parts*” or “*lacking nothing essential*”. Based on such a definition, it is clear that non-essential and non-integral layers such as the *reflective metal*

coatings 14 and 16” disclosed in Park et al. should not intervene between the substrate and the adhesive layer and/or the adhesive layer and the backing material. The “*essential parts to completeness*” or “*integral parts*” of the present invention are the backing material, the back surface of the substrate and the adhesive layer. The relationship between these parts is defined in the claims as “*a backing material integrally bonded to a back surface of said substrate via an adhesive layer*”.

If a metal coating layer is interposed between the substrate and the adhesive layer, then the backing material can only be seen by one skilled in the art to be integrally bonded to the metal coating layer and not to the back surface of the substrate. Likewise, if the metal coating layer is interposed between the adhesive layer and the backing material, then the backing material also cannot be seen by one skilled in the art to be integrally bonded to the back surface of the substrate since such a place is being occupied by the metal coating layer. It should also be noted that since the adhesive layer is interposed between the metal coating layer and the back surface of the substrate, there is no adhesive layer to bond the backing material to the metal coating layer.

Such an interpretation is consistent with that which is disclosed in the specification. On page 1 of the specification, it is disclosed that prior art laminate films, as shown in, for example, FIG. 5, have comprised of a surface substrate 51 made of a transparent polyester-based resin, a metal vapor deposited layer 52 formed by sputtering of aluminum, chromium, or an alloy of the same **on the back surface of the surface substrate 51**, and a polyvinyl chloride or **other backing material 54 integrally bonded to the back surface of the metal vapor deposited layer 52 via an adhesive layer 53**. Thus, it is clear from this disclosure that if the metal vapor coating layer is interposed between the adhesive layer and the back surface of the substrate, the backing material will be integrally bonded to the back surface of the metal vapor coating layer and not the back surface of the substrate.

Such an interpretation is further reinforced by the teachings in FIG. 1 and on page 3, line 29 to page 4, line 1 of the specification. As shown in FIG. 1, the sparkling laminate film 10 according to the present invention is comprised of a substrate 11, a metal vapor deposited layer 20 formed on a front surface 11a of that substrate 11, a transparent resin surface layer 30 formed on the front surface of the metal vapor deposited layer 20, and a backing material 15 **integrally bonded** to a back surface 11b of the substrate 11 via an adhesive layer 14. Based on such descriptions and FIG 1, it is clear that the claim limitation “*a backing material integrally*

bonded to a back surface of said substrate through an adhesive layer” cannot be interpreted to include the possibility of layers intervening between the substrate and the adhesive layer and/or the adhesive layer and the backing material.

Thus, for these reasons, this rejection can no longer be sustained and should be withdrawn.

2. The Examiner rejected claim 4 under 35 U.S.C. §103(a) as allegedly being obvious over Parker et al. (U.S. Patent 4,403,004) in view of Vander Velden et al. (U.S. Patent 5,494,745) and further in view of Sidders (U.S. Patent 4,183,975).

As stated above, to establish a *prima facie* case of obviousness, the cited references must teach or suggest the invention as a whole, including all the limitations of the claims. Here, in this case, the arguments set forth above are also relevant with regards to this rejection and are hereby incorporated by reference. Further, Sidders is directed to a vacuum metallizing process and is only cited to support the Examiner’s position that the capping layer of Parker et al. can be modified to comprise urethane-based resin. Thus, the combination of Parker et al., and Vander Velden et al., and further in view of Sidders fails to teach or suggest the limitation “*a backing material integrally bonded to a back surface of said substrate through an adhesive layer.*”

Thus, this rejection also can no longer be sustained and should be withdrawn.

(v) Other

None

VIII. CLAIMS APPENDIX

A copy of the claims involved in the present appeal is attached hereto as Appendix A.

IX. EVIDENCE APPENDIX

1. A copy of an English online dictionary definition for the term “*integral*” is submitted herewith.

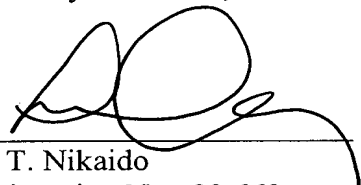
X. RELATED PROCEEDINGS APPENDIX

No related proceedings are referenced in II. above. Thus, no copies of decisions in related proceedings are provided.

Applicant believes that no additional fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. GOT-0018 from which the undersigned is authorized to draw.

Dated: November 1, 2005

Respectfully submitted,

By 
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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 10/685,587.

1. (Original) A sparkling laminate film comprised of a substrate, a metal vapor deposited layer formed on a front surface of said substrate, a transparent resin surface layer formed on the front surface of said metal vapor deposited layer, and a backing material integrally bonded to a back surface of said substrate through an adhesive layer.
2. (Original) A sparkling laminate film as set forth in claim 1, wherein said substrate is comprised of a polyester-based resin with a high flexibility.
3. (Original) A sparkling laminate film as set forth in claim 1, wherein said metal vapor deposited layer has a thickness of 150 to 750Å.
4. (Original) A sparkling laminate film as set forth in claim 1, wherein said transparent resin surface layer is made of one of an acryl-based resin and a urethane-based resin.
5. (Original) A sparkling laminate film as set forth in claim 1, wherein a hue angle (H°) when measuring the color of said transparent resin surface layer is in a range of 245 to 265.
6. (Original) A sparkling shaped article comprised of a shaped body and a sparkling laminate film as set forth in claim 1 integrally bonded with that body.